

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FILED  
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U.S. DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA

AUTOMOTIVE CAPITAL  
COMPANY, LLC,

Plaintiff,

v.

JAMES D. WOOD, et al.,

Defendants.

CIVIL ACTION NO. 98-JEO-1850-S

ENTERED

MAR 21 2000

AUTOMOTIVE CAPITAL  
COMPANY, LLC,

Plaintiff,

v.

SONCAR ENTERPRISES, INC.,

Defendant.

CIVIL ACTION NO. 98-JEO-2765-S

**MEMORANDUM OPINION**

On December 2, 1999, an undersigned magistrate judge of this court entered a report and recommendation that the plaintiff's motion for summary judgment be granted against each of the defendants. There were no objections to the report and recommendation. Premised on the report and recommendation, a memorandum opinion and order were entered in this matter, granting the plaintiff's motion for summary judgment. The court further ordered, *inter alia*, that this matter be referred back to the magistrate judge to conduct an evidentiary hearing on the amount of damages due and owing the plaintiff.

This matter was set for an evidentiary hearing on February 22, 2000, to determine the

amount of damages due and owing the plaintiff. When the case was called, the defendants were not present. The magistrate judge was told by counsel for the plaintiff that he had been informed by a representative of the defendants that they did not intend to be present for the hearing. After allowing the defendants an additional hour to appear, they failed to do so. Accordingly, the court afforded the plaintiff the opportunity to offer any evidence on the issue of damages.

The uncontroverted evidence before the court showed that the amounts due and owing to be as follows:

Principal Due	\$ 474,349.82
Interest for Old Time Period	\$ 83,496.64
Interest for New Time Period	\$ 80,002.67
Attorneys' Fees	\$ 212,128.46
Total	\$ 849,977.59

Premised on this evidence, the magistrate judge recommended that the plaintiff be awarded a judgment against each of the defendants herein, jointly and severally, as follows:

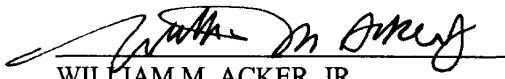
1. Plaintiff ACC be awarded a money judgment in the amount of \$849,977.59;
2. The unpaid balance on the Judgment shall bear interest at the rate of eighteen percent (18%) per annum;
3. The balance due on the Judgment shall be reduced both (a) by all payments received by ACC after the date of the Judgment, where such payments were made on contracts sold to ACC by any of the defendants; and (b) by the net proceeds of the sales of any repossessed vehicles that were repossessed pursuant to contracts sold to ACC by and of the defendants, where such disposition sales occur after the date of the Judgment;

4. ACC also be awarded immediate possession of all of its collateral, including (a) all of the defendant Soncar Enterprises, Inc.'s vehicles, account cards, records, forms, papers, security agreements, collateral, financing statements, installment sales contracts, conditional sales contracts, and certificates of title; and (b) all of either or both defendants James D. Woods' and Carole L. Woods' accounts, general intangibles, equipment, and chattel paper;
5. The Marshal be directed to provide ACC with all reasonable assistance as ACC may request to put ACC in possession of its collateral, but ACC shall pay the Marshal's usual and customary fees, which fees shall automatically be taxed as a cost against the defendants; and,
6. Costs of this action be taxed against the defendants.

The magistrate judge informed the parties that they could file specific written objections to the report and the recommendations within ten (10) days of the date it was filed in the office of the Clerk. No objections have been filed by any party.

The court has considered the entire file in this action and has reached an independent conclusion that the magistrate judge's report and recommendation concerning the issue of damages is due to be adopted and approved. The court hereby adopts and approves the findings and recommendations of the magistrate judge as enumerated above as the findings and conclusions of the court. An appropriate order will be entered.

DONE, this 21<sup>st</sup> day of March, 2000.

  
WILLIAM M. ACKER, JR.  
UNITED STATES DISTRICT JUDGE